

1-1 By: Thompson of Harris, Perry, Miles H.B. No. 1188
 1-2 (Senate Sponsor - Whitmire)
 1-3 (In the Senate - Received from the House April 29, 2013;
 1-4 April 30, 2013, read first time and referred to Committee on State
 1-5 Affairs; May 10, 2013, reported favorably by the following vote:
 1-6 Yeas 6, Nays 0; May 10, 2013, sent to printer.)

1-7 COMMITTEE VOTE

	Yea	Nay	Absent	PNV
1-8				
1-9	X			
1-10	X			
1-11			X	
1-12	X			
1-13	X			
1-14			X	
1-15	X			
1-16			X	
1-17	X			

1-18 A BILL TO BE ENTITLED
 1-19 AN ACT

1-20 relating to limiting the liability of persons who employ persons
 1-21 with criminal convictions.

1-22 BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF TEXAS:

1-23 SECTION 1. Title 6, Civil Practice and Remedies Code, is
 1-24 amended by adding Chapter 142 to read as follows:

1-25 CHAPTER 142. LIMITATION ON LIABILITY FOR HIRING
 1-26 CERTAIN EMPLOYEES

1-27 Sec. 142.001. DEFINITIONS. In this chapter:

1-28 (1) "Employee" means a person other than an
 1-29 independent contractor who, for compensation, performs services
 1-30 for an employer under a written or oral contract for hire, whether
 1-31 express or implied.

1-32 (2) "Independent contractor" has the meaning assigned
 1-33 by Section 91.001, Labor Code.

1-34 Sec. 142.002. LIMITATION ON LIABILITY FOR HIRING EMPLOYEE
 1-35 CONVICTED OF OFFENSE. (a) A cause of action may not be brought
 1-36 against an employer, general contractor, premises owner, or other
 1-37 third party solely for negligently hiring or failing to adequately
 1-38 supervise an employee, based on evidence that the employee has been
 1-39 convicted of an offense.

1-40 (b) This section does not preclude a cause of action for
 1-41 negligent hiring or the failure of an employer, general contractor,
 1-42 premises owner, or other third party to provide adequate
 1-43 supervision of an employee, if:

1-44 (1) the employer, general contractor, premises owner,
 1-45 or other third party knew or should have known of the conviction;
 1-46 and

1-47 (2) the employee was convicted of:

1-48 (A) an offense that was committed while
 1-49 performing duties substantially similar to those reasonably
 1-50 expected to be performed in the employment, or under conditions
 1-51 substantially similar to those reasonably expected to be
 1-52 encountered in the employment, taking into consideration the
 1-53 factors listed in Sections 53.022 and 53.023(a), Occupations Code,
 1-54 without regard to whether the occupation requires a license;

1-55 (B) an offense listed in Section 3g, Article
 1-56 42.12, Code of Criminal Procedure; or

1-57 (C) a sexually violent offense, as defined by
 1-58 Article 62.001, Code of Criminal Procedure.

1-59 (c) The protections provided to an employer, general
 1-60 contractor, premises owner, or third party under this section do
 1-61 not apply in a suit concerning the misuse of funds or property of a

2-1 person other than the employer, general contractor, premises owner,
2-2 or third party by an employee if, on the date the employee was
2-3 hired, the employee had been convicted of a crime that includes
2-4 fraud or the misuse of funds or property as an element of the
2-5 offense, and it was foreseeable that the position for which the
2-6 employee was hired would involve discharging a fiduciary
2-7 responsibility in the management of funds or property.

2-8 (d) This section does not create a cause of action or expand
2-9 an existing cause of action.

2-10 SECTION 2. Chapter 142, Civil Practice and Remedies Code,
2-11 as added by this Act, applies only to a cause of action that accrues
2-12 on or after the effective date of this Act. A cause of action that
2-13 accrues before the effective date of this Act is governed by the law
2-14 in effect immediately before that date, and the former law is
2-15 continued in effect for that purpose.

2-16 SECTION 3. This Act takes effect immediately if it receives
2-17 a vote of two-thirds of all the members elected to each house, as
2-18 provided by Section 39, Article III, Texas Constitution. If this
2-19 Act does not receive the vote necessary for immediate effect, this
2-20 Act takes effect September 1, 2013.

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